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VERNOIS Goulven - US application

Discussion of the Written Opinion

Defence of new claims

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PCT/FR2004/001454

US NATIONAL PHASE

A - WRITTEN OPINION AND DISCUSSION ABOUT THE WRITTEN OPINION

B - DEFENCE OF THE NEW CLAIMS

RECEIVED
25 APR 2006
Legal Staff
International Division

Dear Sir,

A - This discussion of the Written Opinion of the administration in charge of the international research report was written at the time of the entry in the regional phase in front of the OEB, since in fact the OEB was the administration in charge of the research and of the Research Report containing the said Written Opinion.

I join it to the file of the US national phase, so that the Examiner can have the more possible extended idea of the claimed invention.

B - With a same aim, I present the defense of the new claims of the US Phase.

Although I think that the Written Opinions concerning the claims are mainly unfounded within the frameworks of rules PCT, I amended these claims by strictly limiting the invention to an automatic autonomous machine being able to be connected to other identical machines.

According to the International Research Report, there did not exist, and it had not been described at the time of the French initial deposit, a machine ensuring the collection of audio-visual data and the distribution of these data.

It may be that the study which the USPTO will carry out leads to discovered of such a machine, or a whole of anteriorities which make the invention obvious for the specialist of the profession, but this discovery posterior with the international research report will not change the relevance of my response to this report.

This machine of collection and distribution of audio-visual data is desired like an alternative to the current system of collection of musical or audio-visual data, and a way completely independent of internet.

These musical or audio-visual data can be currently distributed by automatic machines, but their collection is done by a whole of complex human procedures in which the human intervention is exclusive of any automatism, and asserted like such.

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There is thus in description and the drawing a strict invention within the meaning of the PCT, or US rules.

By having the possibility to determine automatically if the piece presented by a creator already exists in its base of data, or is sufficiently close to a work existing in this base, the machine makes in an automatic way part of the current human work of study and selection of the works which are put in a catalogue.

The machine of collection and distribution of data makes this study with the assistance of technical means of the former art which had never been used in this manner and for this goal in a machine, but more still which had been used never in the current system of selection of the works by the editors of music.

The musical fingerprints, whose invention is attributed to Philips, were imagined, and the studied process of obtaining, to bring a help in the fight against the hacking. They are currently tested, as seems to show it the joined document, to try to determine if a piece of music circulating on internet belongs to a base of data, and in this case to try to make pay by the internaute loading this piece a financial contribution paying a royalty.

Truly Yours



Goulven VERNONIS

Enclosed pieces :
Written Opinion (French text)
Quoted texts
Internet document about Philips "fingerprint"

- A - WRITTEN OPINION OF THE INTERNATIONAL ADMINISTRATION
 (OEB) RESPONSIBLE OF THE SEARCH
 English translation

Concerning the point V.

1 It is made référence with the following documents in the present notification

D1 CA 2 225 190 A
 D2 US 5 633 839 A

2 INDEPENDANT CLAIM 1.

2.1 The present request does not meet the conditions stated in Article 33(1) PCT, the object of claim 1 not being in conformity with the criterion of innovation defined by Article 33(2) PCT.

The document D1 described (references between bracket applying to this document):

System of collection and distribution of data-processing data (cf title; p.1 l.8-11) having at least:

- A means of storage of mass of data-processing data (cf p.5 l.16-30; fig 1);
- A means of choice of the data-processing data contained in the means of storage of mass (cf p.8 l.31 - p.9 l.10);
- A means of extraction of the selected data of the known as means of storage of mass (cf p.9 l.18-22);
- A means of listening or visualization of the selected data (cf p.9 l.2-7; fig. 1);
- A means of loading of the data selected on independent data carriers (cf p.9 l.22-24; fig. 1);
- A means of calculation of the price to pay to obtain the loading of the data selected on the said independent data carriers (cf p.10 l.30 - p.11 l.2);
- A means of payment (cf p.13 l.27-31; fig. 1);
- characterized in that it has one or more means making it possible to charge with the data on the said means of storage of mass (cf p.10 l.18-28).

The object of claim 1 is thus not new (Article 33(2) PCT).

3 CLAIMS DEPENDANTES 2-7

These claims do not contain characteristics which, combined with the characteristics of an unspecified claim to which they refer, satisfy the requirements of the PCT as regards inventive step (Article 33(3) PCT).

The characteristics of the dependent claims 2, 3 and 7 are already described in D1 (cf p.6 l.7-19; p.10 l.30 - p.11 l.20; p.15 l.10-32) and is in more obvious for the person of the trade.

To determine the price and the contents in the means of storage of mass is a standard measurement for the person of the trade in the field of the vending-machines.

The object of claim 4 is already described in the document D2 (cf c.3 l.41-52).

To receive a payment before supply an object is a standard measurement for the person of the trade in the field of the vending-machines.

The characteristics of the dependent claims 5 and 6 are already described in D1 (cf p.5 l.3-8; p.7 l.1-6). In more it is obvious for the person of the trade to hold a catalogue describing the contents of a storage of mass (see for example D2 c.3 l.6-34).

DISCUSSION OF THE WRITTEN OPINION OF THE ADMINISTRATION

The texts quoted by the Written Opinion are annexed.

Written Opinion concerning claim 1

Introductory notes

- 1) Regulations of the PCT - Rule 6.3-b-i
- 2) Articles 15-3 and 33-2 of the PCT

Rule 6.3-b-i - *Each time that is suitable, the claims must contain*

i) a preamble indicating the characteristics of the invention which are necessary to the definition of the claimed object, but which, being combined, forms part of the state of the art.

However, in part 2.1 of the point V of the Opinion, one observes that the analysis of the preamble, showing that the data of this preamble are already in former art, is put on the same plan that the analysis of the characterizing part, to conclude at the absence of innovation, in a regrettable confusion.

The Rule 6.3-b-i makes it possible to reject the elements of anteriority of the preamble since they are, from this Rule, necessary to the definition of the claimed object.

There thus remains the element supposed of anteriority of the characterizing part, found in CA 2 225 190 A (D1), i.e., page 10, lines 18 to 28.

Article 33-2 *For purposes of the International Preliminary Examination, the invention whose protection is required is regarded as new if it is not found of anteriority in the state of the art such as it is defined in the regulations.*

The invention whose protection is required is that which results from description and drawings.

Indeed, if it is possible to modify, or even to change completely the claims, it is not possible any more to modify the bottom of description nor the drawings.

It may be that the claims, which claim the elements of the invention that one wants particularly to protect, do not protect them in fact, or go beyond the invention, but on no account these claims are the invention.

It is obvious that what requests the inventor, and which to him offers the patent, and what justifies the high sums required, is to protect the described invention, but more or less well claimed.

One is then in front of two extreme behaviours during the drafting of the Written Opinion.

The map is not the territory - In a first behavior, strictly following the articles and rules of the PCT, the examiner seeks what in description and drawings is an invention within the meaning of the PCT, and looks at then if the claims go beyond description and drawings, by true excess or only by one bad drafting.

If it is by true excess, he will say, according to the adequate article or rule, that the matter of the claim as written is not included in the description or possible drawings.

If it is by a bad drafting, it will ask for a new drafting of claims concerned to overcome the objections which it would have formulated, since the fundamental goal of the PCT, and thus of the work of the examiner, is to protect the invention existing in description and drawings.

If he does not find any invention in the description and the drawings, the claims, however is their drafting, then not being able to be accepted, he rejects them while bringing objective elements of anteriority.

In this behavior, the claims are not more the invention than the map is the territory.

The map is the territory - In a second behavior, deviating from the articles and rules of the PCT, the examiner does not seek what in description and the drawings is an invention within the meaning of the PCT, and seeks only what could be an anteriority with the claims as written.

One then arrives necessarily at a refusal of the invention which can exist, if the claims exceed the description, or are simply badly written.

The claims become then the invention, and the map the territory.

This behavior probably finds its origin in a **refusal, which does not exist in the articles and rules of the PCT**, to make a research task of the invention which can exist in description and drawings, and a constructive criticism of the claims, **which would be allegedly only within of specialized agents province**, external with the PCT.

Article 15-3 International research is carried out on the basis of claim, taking into account the description and the drawings (if necessary)

If one observes these articles 15-3 and 33-2, i.e. if one compares the quoted data of the document D1, the possibility for a customer of the distributor to ask for a work not existing in this distributor, with the data of the description and the drawing of the request, a reader of physical supports being on a side of the distributor, and accessible exclusively for a person being in front of the distributor, one sees that there is no element of anteriority in the data

One can see in the quoted document, for example pages 7, lines 20-25, and page 6, line 20, which there exists in the distributors several programs, User To manage, File Manager or Communication Manager which organize the operation of the system.

On the other hand, Customer Service is not a program, but a Customer Service which can contact authors of works or labels.

In the event of dispute in front of a Court, this one will read the claims taking into account the description and the drawing, in accordance with article 15-3.

One can thus affirm that the Written Opinion " *the object of claim 1 is not new (Article 33(2) PCT)* ", belongs to the second behavior described and is not founded within the meaning of the PCT, since it misses the recognition of the described invention and the invitation to amend the claim to overcome the raised objection which would seem to be a going beyond of description by this claim.

(Arrived at this stage, **the Examiner of the USPTO**, not to do waste time with the USPTO, or time and money with the inventor, recognized the character of innovation of the invention would have described, and invited the inventor to rewrite one or more claims to avoid the

objections that he would have formulated).

Written Opinion concerning claims 2, 3 and 7

" the characteristics of the dependent claims 2, 3, and 7 are already described in D1 (...) and are in more obvious for the person of the trade. To determine the price and the contents of the means of mass storage is a standard measurement for the person of the trade in the field of the vending-machines. "

Written Opinion concerning claim 2

The characteristics of claim 2 would be already described in the document D1, page 6, line 7 to 19, of page 10, line 30 on page 11, line 20, or page 15, lines 10 to 32.

2) Système according to claim 1, characterized in that an automatic means of the system, or a human means, analyzes the data introduced into the means of loading of the means of storage of mass, accepts or not these data, and determines the price of hiring of the volume of the means of mass storage which will be occupied by these data.

Lines 7 to 19 of page 6 do not describe anything which can be an anteriority for this claim 2.

The lines of page 10, line 30 with line 20 of page 11 describe the elements which can intervene to determine the price that must pay a customer to obtain CD loaded by the data chosen, but do not have any relationship to the costing of the hiring of a space of the mass memory.

There are thus nothing in these lines which can be an anteriority for this claim 2.

Lines 10 to 32 of page 15 also do not describe anything which can be an anteriority for this claim 2.

In conclusion, the Written Opinion concerning claim 2 is unfounded.

Written Opinion concerning claim 3

3) Système according to claim 2, characterized in that the means of analysis of the data determines and displays, in absolute value and expressed as a percentage, the sums which will be versed to the beneficiaries of the selected data.

None the passages of D1 seen for claim 2 has relevance for claim 3.

In conclusion, the Written Opinion concerning claim 3 is unfounded.

Written Opinion concerning claim 7

7) Système according to claim 2, characterized in that the data of the musical type contained in the means of storage of mass are accompanied by a spectrum of the musical notations and a lexical analysis, and in what the automatic means of analysis carries out, on the data in waiting of loading in the means of mass storage, a musical spectrum and a lexical analysis which it compares with those existing in the said means of mass storage .

Lines 10 to 20 of page 15 seem to have been used as a basis for the opinion written concerning claim 7.

It seems that the Written Opinion confuses, probably by ignorance, two concepts distinct.

In the quoted text it is described a means allowing a customer having chosen several pieces, from which the sound volumes can be very different in the base from data, not to have to modify the volume of hearing to each piece, the distributor having given during engraving to each piece a sound average, taking volumes of the other selected pieces into account.

In claim 7, it is asserted that a means of the distributor makes a musical and/or lexical analysis of each piece, to obtain from it a single " print " which differentiates it from any other piece.

This print does not relate to the level noise in decibel, minimal or maximum of each piece, which varies according to the particular recording and the reader, as one sees it in the document D1.

The print in question in the request is obtained by an analysis complex of the musical data of a piece of music, independent of the values minis or maximum of their sound volume in hearing, and which the written opinion seems to be unaware of.

Firms propose their services to manufacture these musical and/or lexical prints.

The goal of these prints is to characterize in a single way a piece of music in a condensed form, and to allow the comparison of two prints.

This can make it possible a robot to quickly determine if a diffused piece is in its bank of data, to identify this piece and thus its author, and to calculate the rights to perceive.

One is thus very far from the description and the goal of the document quoted D1.

Claim 7 clearly described the use of the lexical and musical analyses but do not claim to have invented the means to obtain them, means which belong to former art, but which up to now had not been used in this manner and to this goal, in a machine of collection and distribution of data.

To confuse a musical and/or lexical analysis with the noise levels evoked in the document D1, which are not evoked besides like musical and/or lexical analyses, and which cannot be evoked like such, indicates an ignorance prejudicial of these technologies of musical and/or lexical analysis leading to single prints characteristic of each œuvre.

In conclusion, the Written Opinion concerning this claim 7 is unfounded.

Written Opinion concerning claim 4

4) Système according to claim 1, characterized in that a means of payment authorizes the loading of the data to load on the means of mass storage only when the payment of the hiring of the volume which will be occupied is completed.

The quoted elements of the document D2 relate to the payment by the customer of the pieces selected and loaded by the distributor on CD.

It is about the payment carried out by any user of a slot-machine to obtain the product selected.

In the case of the described invention, it is a type of different payment, carried out by a type of different customer, and being the subject of a different procedure and technical means different.

The first means of payment delivers an object outside the machine, whereas the claimed means authorizes the loading of data in the mass memory of the machine of collection and

distribution of data, after payment of the hiring of the volume of the memory which will be occupied.

The invention does not claim to reinvent the automation of the hiring of a space (parking meter) or delivery of an object against its payment, but applies these universal principles to a new activity, for a new realization, with new means, which is the loading of the mass memory of a data distributing machine by data loaded on a physical support introduced into a reader of physical supports accessible on a face of the distributor, and the hiring of the space of the mass memory occupied by the data loaded.

In conclusion, the Written Opinion concerning claim 4 is unfounded.

GENERAL CONCLUSION CONCERNING THE WRITTEN OPINION

The unfounded written opinions of the administration result from the ignorance of articles 15-3 and 33-2 of the PCT which specify that international research is carried out on the basis of claims, but taking into account the description and the drawings.

Here, obviously, the description and the drawing were not taken into account in international research and in the Written Opinion which concludes it.

- B -**DEFENCE OF THE NEW CLAIMS**

Like he was already said, the new claims were written to avoid the objections formulated in the Written Opinion, even if these objections are mainly unfounded

These new claims were also written to limit more clearly the invention to a machine of collection distribution innovating, but very precise and very firmly protected.

A machine having the ambition to offer a long-term alternative to the collection of the audio-visual works must be based on a limited number of seriously protected strong elements.

It seems to me, after the Written Opinion of the administration, and after reflexion, that a particularly solid element of this invention is the use of the musical and/or lexical prints. This use is a real and undeniable innovation on a machine of collection and distribution of audio-visual data.

The use of the audio-visual prints for the checks of the works brought by a creator is an essential element of the originality and credibility of this machine of collection distribution

A creator will be all the more attracted by such a machine that he will know that it controls the originality of what one proposes to it, and the possible investors will be attracted by the seriousness of this control

Contrary to a preconceived and unfounded idea, the sale by distributing-machines, on a world level, and the hiring of DVD, significantly do not undergo the competition of the sales on line.

The present invention, associated with application PCT/FR2004/001456, allowing, without being penalized by an expensive stock, the hiring of self erasable optical discs becoming illegible under the influence of oxygen, form a whole which could be extremely séduisant for countries very populated like China and India, or very wide like Russia.

China and India have together a population close to the third of the world population, and this proportion will be increasing.

These countries do not have the telephone density of Europe, the USA or Japan, and the ADSL high flow, theoretically making it possible to charge a DVD on line, will exist yet in 20 years lifespan of the patents, only for one weak part of the population.

In addition, the loading of a DVD on a portable telephone is financially impracticable.

Today, the audio-visual data-gathering is monopolistic, controlled by the USA and Europe, the collection of the karaoké type being very localised and marginal.

One can say that two thirds of the world population are excluded from this collection.

A world network, consisted a group of machines of collection distribution connected together, can modify in the long term current exclusiveness in favour of the USA and Europe by allowing a quasi automatic access and with low cost for excluded two thirds.

But it is not excluded that, in spite of the existence of a dense telephone network, the USA and Europe have customers attracted by the freedom and the facility of diffusion of the audio-visual works offered by these machines of collection distribution, to be able to make profitable them in the USA and in Europe.

From this world perspective, the exclusive use of the musical and/or lexical prints is a major asset by the serious one which it brings.

The existence of a reader accessible on a side of the machine, and dedicated to the reading of the data supports brought by a creator, is a second essential element, if it appears original as I believe it, and nonobvious for an expert as I believe it too.

A third essential element is the hiring of a space of the mass memory of the machine of collection distribution, which does not exist in the former art, and which is not obvious either for the expert.

I chose, to give to the claims a logical order, to privilege the existence of a reader accessible on a face of the machine and dedicated to the reading of supports brought by a creator, but the first claim could have been the creation of a audio-visual print of the work brought, and its comparison with the prints existing in the mass memory.

From this creation and comparison of prints, it was possible to associate a reader located on a side of the machine and dedicated to the reading of the data supports brought by a creator, and the hiring of a space of the mass memory.

But there could then be an ambiguity on the unicity of the invention.

In the adopted order, there is a coherence which integrates the various elements in only one object, in a logical order, with the respect of the unity of invention.

One can say that in the order chosen, the innovations are connected logically to constitute a powerful machine, single and particularly innovating.

US PHASE CLAIMS

Claim 1

*1) Autonomous data distributing-machine having at least:
a mass memory;
a means of selection of the data contained in the mass memory;
a means of loading the data selected on independent data supports;*

characterized in that it has a reader directly accessible from outer, and dedicated to the reading of data supports brought by a creator, for example CD or DVD.

This new writing more strictly limiting the invention to description and to the drawing cannot be coming within the document annexed DI, page 10, line 18-28, which becomes completely off the subject.

Claim 2

*2) Autonomous data distributing-machine according to claim 1,
characterized in that it has an intermediate memory in which will be charged temporarily the data read by the reader dedicated to the reading of the data support brought by a creator;*

This claim is not absolutely necessary to the operation of the machine of collection distribution, but is integrated logically.

Claim 3

3) Autonomous data distributing-machine according to claim 1,

characterized in that it has a means of analysis providing a musical and/or lexical fingerprint or hallmark of each audio-visual piece constituting the data brought by a creator, and read by the dedicated reader;

The ignorance of the technique of the musical and/or lexical prints led me to employ the term used by Philips and firms which work in the field of the fight against the hacking, where these prints are currently tested.

Claim 4

4) Autonomous data distributing-machine according to claim 1, characterized in that to each piece of audio-visual data existing in the mass memory is added its musical and/or lexical fingerprint or hallmark,

The musical and/or lexical prints being unknown of the Written Opinion, the existence of such prints accompanying each audio-visual piece in the mass memory is innovating.

Claim 5

5) Autonomous data distributing-machine according to claim 1, characterized in that it has a means of comparison of the musical and/or lexical fingerprints or hallmarks allowing to the said autonomous data distributing-machine :

- a) to compare an audio-visual piece brought by a creator with audio-visual pieces existing in mass memory,*
- b) to accept or refuse the pieces brought by the creator,*

The musical and/or lexical prints being unknown of the Written Opinion, the elements based on these prints cannot be coming within the texts quoted by this Written Opinion.

Claim 6

6) Autonomous data distributing-machine according to claim 1, characterized in that it has a means to fix the price of hiring of the memory capacity which will be occupied by the accepted audio-visual data, increased by their musical and/or lexical fingerprints or hallmarks, and on standby in the intermediate memory.

The hiring of a memory capacity in the mass memory of a data distributing machine does not exist in former art, within sight of the Written Opinion.

An equivalence, in the field of the distributors of objects, would be a distributor in self-service having two types of customers.

The first type of customer would deposit in an element of the machine an object to be sold. The machine would examine the object, would calculate space necessary to place it, and would propose a price of hiring of this space.

The machine would study with the customer the reasonable selling price of the object, will determine the percentage which it will take, and if the customer accepts these conditions and pays the hiring, then the machine will present the object to the sale.

The second type of customer will buy the object as in a normal distributor.

If such a machine existed, perhaps it could be regarded as an anteriority, but the Written Opinion does not give an account of such a machine.

Claim 7

7) Autonomous data distributing-machine according to claim 1,

characterized in that it has a specific means of payment authorizing the loading in the mass memory, of the data in standby in the intermediate memory, when the payment of the hiring is made.

Claim 8

8) Autonomous slot-machine of data according to claim 1, characterized in that the means of analysis of the data determines and displays, in absolute value and expressed as a percentage, the sums which will be versed to the creators and/or legal claimants of the data chosen by user.

.As it had said in the discussion of the Written Opinion, there exists nothing in the texts quoted by the Written Opinion which can be brought closer to this claim.

The knowledge, by the creator bringing the data and the purchasers of these data, of the sums transferred with these creators and legal claimants can be a major element of conviviality involving adhesion with the system.

This determination can take into account a great number of data and thus implies an elaborate program which is not evoked by the Written Opinion.

**OPINION ECRITE DE L'ADMINISTRATION
CHARGEE DE LA RECHERCHE
INTERNATIONALE (FEUILLE SEPARÉE)**

French text x
PCT/FR2004/001454
Demande internationale n° *US*
PCT/FR2004/001454

Concernant le point V.

- 1 Il est fait référence aux documents suivants dans la présente notification:

D1 : CA 2 225 190 A

D2 : US 5 633 839 A

2 REVENDICATION INDEPENDANTE 1

- 2.1 La présente demande ne remplit pas les conditions énoncées dans l'Article 33(1) PCT, l'objet de la revendication 1 n'étant pas conforme au critère de nouveauté défini par l'Article 33(2) PCT.

Le document D1 décrit (les références entre parenthèses s'appliquant à ce document):

Système de collection et de distribution de données informatiques (cf. titre; p.1 l.8-11) possédant au moins:

un moyen de stockage de masse de données informatiques (cf. p.5 l.16-30; fig.1);

un moyen de choix des données informatiques contenues dans le moyen de stockage de masse (cf. p.8 l.31 - p.9 l.10);

un moyen d'extraction des données choisies du dit moyen de stockage de masse (cf. p.9 l.18-22);

un moyen d'écoute ou de visualisation des données choisies (cf. p.9 l.2-7; fig.1);

un moyen de chargement des données choisies sur des supports des données indépendants (cf. p.9 l.22-24; fig.1);

un moyen de calcul du prix à payer pour obtenir le chargement des données choisies sur les dits supports de données indépendants (cf. p.10 l.30 - p.11 l.2);

un moyen de paiement (cf. p.13 l.27-31; fig.1);

caractérisé en ce qu'il possède un ou plusieurs moyens permettant de charger des données sur le dit moyen de stockage de masse (cf. p.10 l.18-28).

L'objet de la revendication 1 n'est donc pas nouveau (Article 33(2) PCT).

3 REVENDICATIONS DEPENDANTES 2-7

Ces revendications ne contiennent pas de caractéristiques qui, combinées avec

les caractéristiques d'une quelconque revendication à laquelle elles se réfèrent, satisfont aux exigences du PCT en matière d'activité inventive (Article 33(3) PCT)

Les caractéristiques des revendications dépendantes 2, 3 et 7 sont déjà décrites dans D1 (cf. p.6 l.7-19; p.10 l.30 - p.11 l.20; p.15 l.10-32) et sont en plus évident pour la personne du métier. Déterminer le prix et les contenus dans le moyen de stockage de masse est une mesure normale pour la personne du métier dans le domaine des machines à vendre.

L'objet de la revendication 4 est déjà décrit dans le document D2 (cf. c.3 l.41-52). Recevoir un paiement avant délivrer un objet est une mesure normale pour la personne du métier dans le domaine des machines à vendre.

Les caractéristiques des revendications dépendantes 5 et 6 sont déjà décrites dans D1 (cf. p.5 l.3-8; p.7 l.1-6). En plus il est évident pour la personne du métier de tenir un catalogue décrivant le contenu d'un stockage de masse (voir par exemple D2 c.3 l.6-34).

Concernant le point VIII.

Les caractéristiques figurant dans les revendications ne comportent pas de signes de référence mis entre parenthèses (règle 6.2 b) PCT).

D1 16, p 7-19
PCT/FR2004/001454
quoted text

communications infrastructure will consist of a high-speed connection because of the potentially large volumes of data that may have to be moved from the repository to the end-point.

5 Figure 1 illustrates the general block diagram of the present invention.

10 The end-points will be packaged differently depending on their location. One set of end-points may be deployed in a public access setting, while others may be used in the home (in the form of consumer electronic devices). Moreover, on one hand, there is a need for a more robust industrial grade enclosure, on the other, esthetics and cost may be more important.

15 Regardless of physical packaging, the end-points all comprise an user manager that performs the user interface program, a file manager for managing the song selections and of a communication manager for downloading the song selections that are not available locally and for validating credit card payments.

20 Each of these managers is a software application that executes using specialized hardware, in accordance with its predominant task. Further, each of these managers may be tightly coupled (i.e. on a single computer with each manager being a task within a real-time, multitasking operating system) or loosely coupled (i.e. on multiple computers connected through communication channels).

30 While each manager has been named in accordance with its predominant function, each of the managers may contain within it, other functions. For example, each manager may have a message delivery and queuing function, a timer function, a communications function, an I/O function etc.

DI p10 e70 →
p11 e20

ROM drive: the hard-disk allow a steady stream of data to be read from it so it provides continuous flow of data toward the CD-ROM burner, while a CD-ROM reader would sequentially read data, output data and replace its head reader, thus not providing continuous data flow. This embodiment of the present invention is showed in Figure 2.

An Internet Web (WWW) Site may also be made available to potential customers to allow off-line choosing. This web site will allow potential customers to browse and search the repertoire, listen to sound bites from tracks and save their selections. When the customers then visit the end-point and identify themselves, their pre-chosen track list(s) will be recalled and the end-point can immediately proceed to the recording process (after customer confirmation).

The Web Site may also e-mail notices and special promotions on an ongoing basis (provided that the customer has requested to be added to the mailing list).

If at the end of the search process the customer has been unable to find the particular track that they were looking for, the system will prompt and request a few lines of text to help identify what they were looking for (e.g. artist/title guess/recording date etc). This information will then be sent to Customer Service and will be used to track the lost opportunity. This lost opportunity might also be communicated to the respective audio track owner(s) so that it can be added to the repository and made available to the customer. Over time these statistics will be very useful to record labels, as it will help them decide which titles from their catalogues should be made available.

As mentioned above, regardless of the track selection process (searching, browsing etc), the tracks chosen are

retained and calculations are performed to indicate both the cost, and the accumulated time as shown in Figure 4.

The repository may also have the flexibility to associate sophisticated business rules on a track by track basis. These business rules are applied in real-time as each track is selected to provide the customer with track costing. The track owner(s) may provide the business rules.

There also may be a need to apply business rules based on certain collections of songs. For example, record labels may require that new releases be only delivered in their entirety (since the same collection of songs might be available through traditional retail channels). This will most likely be done to preserve the investment made in the production of the new release by the record label.

These business rules (associated with collections and with each track) will take into consideration such things locale, currency exchange, taxation, tariffs, royalties and time-limited promotions. This kind of flexibility may be provided to protect the existing business models of the record labels.

Once all the tracks have been chosen, the user may be asked to allow the File Manager to reorder the tracks. This will be done when it is discovered that the tracks that are local are interleaved with tracks that have to be downloaded. If the missing tracks can be retrieved while the other locally cached tracks are being produced, the amount of time that the consumer has to wait is reduced.

The client terminal may also provide a music advisor service for customers wanting to be helped in their musical selection. Assume for a moment that a customer has chosen three or four tracks. Further, suppose that he/she is not

used to ensure that performance objectives are met and that production of the recording and communications occur on tight deadlines.

In addition to being given notice of a user's desire to purchase a particular track, a Predictive Downloader will also consult other end-points (most likely on a regional basis) to anticipate the list of tracks that need to be cached locally. This will most likely occur in the off-hours.

As tracks are added at the repository, a repertoire synchronize command is sent to each end-point (in a staggered fashion, to avoid a broadcast storm). The repertoire synchronizer then requests the adds/changes/deletions from the repository and updates its database of tracks to reflect the changes.

The adds/changes/deletions are then sent to the User Manager (Repertoire List Synchronizer) so that the latest and most complete list of tracks is always available to the consumer.

As part of the recording process, the peaks and valleys (minimum and maximum) will be determined and stored with the track information. When it comes time to produce a recording of a number of tracks, the minimum and maximum will be considered against other minimum and maximum for the other tracks and a compensation value will be calculated for each track. This is necessary because each track has the potential of being recorded at different volume levels producing a very noticeable increase/decrease in volume from track to track. This Recording Level Normalization is done to prevent the consumer from having to continually adjust the volume at playback time. If however an entire recording is chosen, no Recording Level Normalization will occur.

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30 stores data in the RAM 32 and retrieves data from the RAM 32 as directed by the microprocessor 26. Alternatively, the disk drive 30 may be a compact disk drive or a floppy disk drive. The disk drive 30 is located behind the service door 26.

Referring to FIGS. 1, 2 and 3, when the customer presses the see more button 18A, the list of available selections 50 shows additional musical selections in the currently displayed category.

When the customer presses the choose category button 18B, the list of available selections 50 shows musical selections in a new category.

When the customer presses the numerical keys 18G, numbers 21 corresponding to the numerical keys 18G pressed appear on the keyboard screen 19.

When the customer presses the backspace key 18H, the last number 21 appearing on the keyboard screen 19 is erased from the keyboard screen 19.

When the customer presses the enter this selection key 18I, the numbers 21 appearing on the keyboard screen 19 are compared by the microprocessor 26 to the codes 56 stored in the RAM 32. If the numbers 21 correspond to one of the codes 56 stored in the RAM 32, the title 54 of the musical selection corresponding to the code 56 appears on the list of customer selections 52 and the numbers 21 are erased from the keyboard screen 19. If the numbers 21 do not correspond to one of the codes 56, the numbers 21 remain on the keyboard screen 19 and an appropriate message may be displayed on the monitor 12 to notify the customer that no such selection is available.

When the customer presses the remove last selection key 18K, the last musical selection appearing on the list of customer selections 52 is removed.

When the customer presses the record this CD button 18E, a message prompting the customer to insert a payment card (not shown) appears on the monitor 12.

When the customer inserts the payment card into the card slot 16A, the card reader 16C retrieves the electronic information stored on the payment card and sends payment information to the microprocessor 26. The microprocessor 26 then directs the receipt printer and dispenser 16D to print a receipt (not shown) and to dispense the receipt through the receipt slot 16B. The microprocessor 26 then directs the CD writer and dispenser 34 to retrieve a blank compact disk (not shown) from a CD storage 40 and to record the customer's selections onto the compact disk and to dispense the disk into an area (not shown) behind the product access door 20.

The microprocessor 26 then directs the CD insert printer and dispenser to print the titles 54 of the customer's selections on a paper compact disk insert (not shown), and to dispense the insert into the area behind the product access door 20.

The microprocessor 26 directs the audio output device 38 to generate various sounds to signal the appropriateness or inappropriateness of a button press by the customer. The audio output device 38 is located behind the speaker grille 44. The audio output device 38 includes an amplifier (not shown) and a speaker (not shown).

The yes button 18C and the no button 18D may be used by the customer to enter responses to prompts (not shown) which may appear on the monitor 12. The prompts may

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include requests for the customer to confirm his or her intent. For example, the prompt, "Are you sure you wish to record the CD now? Press Yes or No", may appear after the record this CD button 18E has been pressed.

The customer interface with the compact disk vending system 10 may vary from the foregoing description. For example, FIG. 4 shows an alternative embodiment of the keyboard 18, wherein the keyboard 18 includes cursor keys 46 and an enter key 48. The customer highlights various items displayed on the monitor 12 by pressing the cursor keys 46. The customer indicates his or her intent by pressing the enter key 48 when the desired item is highlighted.

CONCLUSION, RAMIFICATIONS AND SCOPE

Thus the compact disk vending system of the present invention permits a customer to purchase a compact disk containing his or her individual music selections. Because the keyboard of the first embodiment includes several clearly labeled buttons and keys which initiate individual functions necessary to make selections, initiate recording of the compact disk and pay for the disk, the compact disk vending system is easy to use and requires only minimal printed instructions.

While the above description contains many specificities, these should not be construed as limitations on the scope of the invention, but rather as an exemplification of one preferred embodiment thereof. Many variations are possible.

Accordingly, the scope of the invention should be determined not by the embodiment illustrated, but by the appended claims and their legal equivalents.

The invention claimed is:

1. A compact disk vending system for recording a customer's musical selections onto a compact disk, said compact disk vending system comprising:

- a. a removable hard drive having available musical selections and titles of said available musical selections and codes for each of said available musical selections digitally stored thereon;
- b. a microprocessor;
- c. a random access memory;
- d. said removable hard drive storing data in said random access memory as directed by said microprocessor, said removable hard drive retrieving data from said random access memory as directed by said microprocessor;
- e. a read only memory;
- f. said microprocessor acting upon instructions received from said random access memory and said read only memory;
- g. a customer-accessible face;
- h. a monitor on said face, said monitor controlled by said microprocessor, said monitor displaying a list of said available musical selections, said monitor displaying a list of the customer's musical selections;
- i. a keyboard on said face, said keyboard providing input to said microprocessor;
- j. said keyboard comprising a choose category button, said choose category button when pressed directing said microprocessor to control said monitor to display said available musical selections in a new category;
- k. said keyboard comprising numerical keys;
- l. a keyboard screen on said face, said keyboard screen displaying numbers corresponding to said numerical keys when said numerical keys are pressed;

PCI/FR 2004/001454

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P2P, TIC, Web, Médias, droit de la société d'information... tout ça et plus !

Musical fingerprint

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Le fondateur de Napster lève le voile sur sa nouvelle technologie pour le P2P

samedi 4 décembre 2004 | 02:12 | Actu P2P [Autre] | #1375 |

Saturday 4, december 2004

Pionner du "piratage" de musique sur Internet, Shawn Fanning, le fondateur de Napster, dont l'industrie avait réussi à obtenir la fermeture en 2001, révient aujourd'hui avec un nouveau projet, cette fois du côté des Majors. **Snocap**, c'est le nom de la société que lancera Shawn Fanning lundi avec pour objectif d'aider l'industrie à vendre de la musique sur les réseaux P2P "illégaux".

Selon son créateur le procédé permettra parmi toutes les chansons illégalement échangées de trouver celles qui sont soumises au copyright et ainsi faire "passer" à la caisse les "pirates". Si le procédé reste encore flou techniquement et quand à ses réelles capacités, il repose néanmoins sur une technologie d'empreinte digitale développé par Philips. En fait le système n'est pas nouveau, il permet de reconnaître, par comparaison avec une base de donnée, et de façon audio, une chanson par son "empreinte digitale". Une fois le titre identifié, le système appliquera les règles édités par les Majors (et fourni à Snocap) : lecture uniquement sur windows media player contre le paiement de 0.99 \$... La technologie jouerait ainsi le rôle à la fois d'identificateur et de DRM.

developed by Philips
fingerprint

Reste que des technologies identiques (ou reposant sur le même principe) n'ont jamais pu réellement démontrer leurs efficacités dans des réseaux P2P décentralisés, à l'image **d'audiblemagic** qui indique pouvoir filtrer tous réseaux P2P avec sa technologie de reconnaissance d'empreinte digitale. D'ailleurs Michael Weiss (CEO de Streamcast, éditeur de Morpheus) déclare : *"My fear is that Snocap is coming up with solutions that are four years old. As far as we're concerned, we want to push the technology envelope."* La différence viendrait néanmoins du fait que Snocap souhaiterait intégrer sa technologie directement dans les logiciels P2P, comme pour son projet **MashBoxx** actuellement en développement. Nous attendrons donc le lancement opérationnel du service pour "tester" cette technologie.

Via [Yahoo news](#), [Yahoo News](#) et [ZDnet](#).

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